

**Notice of Allowability****Application No.**

09/830,992

**Applicant(s)**

LUBISCH ET AL.

**Examiner**

Laura L. Stockton

**Art Unit**

1626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE and IDS, both filed February 19, 2010.
2. ☒ The allowed claim(s) is/are 1-10, 14, 16-22, 24 and 26, now renumbered claims 1-20, respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 2/19/2010
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 04/21/10
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.

/Laura L. Stockton/  
Primary Examiner  
Art Unit: 1626

Continuation of Attachment(s) 9. Other: Continued Examination and Terminal Disclaimer.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Susan L. Steele on April 23, 2010.

The application has been amended as follows:

**In the Specification**

Page 1, line 4 of page:

add --This application is a 371 of PCT/EP99/08169  
filed October 28, 1999. -- .

**In the Claims (Amendment filed May 14, 2009)**

**Claim 1**, page 4, line 13 of page:

replace "for the carbocycles" with

-- for the phenyls -- .

**Claim 1**, page 5, line 2 of page:

replace "SO<sub>2</sub>NH<sub>2</sub>," with -- SO<sub>2</sub>NH<sub>2</sub> or -- .

**Claim 1**, page 5, line 3 of page:

replace "-O-(CH)<sub>1,2</sub>-O-" with -- -O-(CH<sub>2</sub>)<sub>1,2</sub>-O- -- .

**Claim 1**, page 6:

delete lines 9-12 of page.

**Claim 1**, page 6, line 18 of page:

replace "tautorneric" with -- tautomeric --.

**Claim 2**, page 7, line 4 of page:

after "or a group  $R^5$ , where", add

-- x is 0, 1 or 2, --.

**Claim 2**, page 7, line 12 of page:

replace "m, o" with -- m and o -- .

**Claim 2**, page 8, line 8 of page:

replace "are" with -- is --.

**Claim 2**, page 8, line 11 of page:

replace "the carbocycles" with

-- the phenyls -- .

**Claim 2**, page 9, line 3 of page"

replace " $\text{SO}_2\text{NH}_2$ ," with --  $\text{SO}_2\text{NH}_2$  or -- .

**Claim 2**, page 9, line 3 of page:

replace " $-\text{O}-(\text{CH})_{1,2}-\text{O}-$ " with --  $-\text{O}-(\text{CH}_2)_{1,2}-\text{O}-$  -- .

**Claim 2**, page 9, line 4 of page:

replace "tautorneric" with -- tautomeric --.

**Claim 3**, page 9, line 5 of claim:

Replace "thealkyl" with -- the alkyl -- .

**Claim 3**, page 9, line 5 of claim:

after "or a group  $R^5$ , where", add  
-- x is 0, 1 or 2, --.

**Claim 3**, page 10, line 5 of page:

replace "m, o" with -- m and o -- .

**Claim 3**, page 10, next to the last line of page:

replace "SO<sub>2</sub>-C<sub>1</sub>-C<sub>4</sub>-alkyl" with -- SO<sub>2</sub>-C<sub>1</sub>-C<sub>4</sub>-alkyl -- .

**Claim 7**, page 11, line 5 of claim:

after "or a group  $R^5$ , where", add  
-- x is 0, 1 or 2, --.

**Claim 7**, page 13, line 6 of page:

replace "tautorneric" with -- tautomeric --.

**Claim 7**, page 13, line 6 of page:

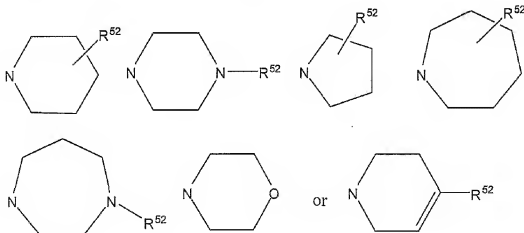
before "or a tautomeric form", add

--

$R^4$  is hydrogen, or branched or unbranched  $C_1$ - $C_6$ -alkyl, chlorine, bromine, fluorine, nitro, cyano,  $NR^{41}R^{42}$ ,  $NH-CO-R^{43}$ , or  $OR^{41}$ , where

$R^{41}$  and  $R^{42}$  are, independently of one another, hydrogen or  $C_1$ - $C_4$ -alkyl and  $R^{43}$  is  $C_1$ - $C_4$ -alkyl or phenyl, and

$R^5$  is  $NR^{51}R^{52}$  or one of the radicals below



where

$R^{51}$  is hydrogen or branched or unbranched  $C_1$ - $C_6$ -alkyl, -- .

**Claim 24**, line 1 of claim:

replace "sepsis," with -- sepsis of multiorgan  
failure, -- .

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 19, 2010 has been entered.

***Information Disclosure Statement***

The Examiner has considered the Information Disclosure Statement(s) filed on February 19, 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Terminal Disclaimer***

The terminal disclaimer filed on January 15, 2010 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,696,437 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura L. Stockton whose telephone number is (571) 272-0710. The examiner can normally be reached

on Monday-Friday from 6:00 am to 2:30 pm. If the examiner is out of the Office, the examiner's supervisor, Joseph McKane, can be reached on (571) 272-0699.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

The Official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Laura L. Stockton/  
Laura L. Stockton  
Primary Examiner, Art Unit 1626  
Group 1620  
Technology Center 1600

April 30, 2010